

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Figueira Decl. Tab

114

VIACOM INTERNATIONAL, INC., COMEDY)
PARTNERS, COUNTRY MUSIC.)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, and BLACK)
ENTERTAINMENT TELEVISION, LLC,)

Plaintiffs,)

vs.)

NO. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)

Defendants.)

THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)

Plaintiffs,)

vs.)

NO. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)

Defendants.)

VIDEOTAPED DEPOSITION OF KENT WALKER
PALO ALTO, CALIFORNIA

THURSDAY, DECEMBER 17, 2009

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR
CSR LICENSE NO. 9830
JOB NO. 18312

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2 A One, I have no idea what other people --
3 there were a number of people in the company who were
4 engaged with Viacom in a whole variety of context that
5 I'm not familiar with.

6 Q Understood.

7 A So I don't know what they may or may not have
8 offered. With regard to my conversation with
9 Mr. Fricklas, I don't remember whether Audible Magic
10 came up, I don't remember whether he asked for it, I
11 don't remember whether I offered it or didn't offer
12 it. I just don't recall.

13 The reason for that was that it was and still
14 is my understanding that Audible Magic is more --
15 while it's not a great tool, it relatively is more
16 suited for audio content, music content, primarily,
17 than is for video content. In part because of the --
18 the reasons we talked about before, that video is much
19 more information dense, it's a much harder search
20 problem, and that the -- the Audible Magic technology
21 hadn't evolved in a way that would make it usable or
22 useful for Viacom to -- to implement.

23 There's another distinction as well, which
24 is, music content is perhaps uniquely legally complex
25 because of the number of overlapping and sometimes

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2 inconsistent rights associated with it. There are a
3 wide number of different rights that are owned by the
4 performer, the creator, the -- the publishers, the
5 labels, the collecting societies in Europe, et cetera,
6 and each of those entities can own multiple rights,
7 which sometimes align and sometimes do not.

8 As a result of that, there are complexities
9 associated with that, which I believe the Audible
10 Magic system had been optimized for, both in terms of
11 the technological operation of the system and the
12 assembly of a database, which was designed to track
13 all of the -- the complex music rights associated with
14 it.

15 As the name Audible Magic itself suggests, it
16 was a music tool, at least that was my understanding.

17 MR. SCHAPIRO: Let's -- let's take a break
18 for five minutes.

19 THE VIDEOGRAPHER: The time is 10:47.

20 Off the record.

21 (Recess taken.)

22 THE VIDEOGRAPHER: The time is 10:57.

23 On the record.

24 MR. DESANCTIS: Mr. Walker, before we just
25 took a short break, you were describing for me certain